

Edward & Renee Fisher
3696 Princeton Way
Medford, OR 97504

FILED 10 SEP 16 10:43 USDC-OR

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

Edward and Renee Fisher

Case # **10-3079-CL**

Plaintiff,

vs.

**BANK OF AMERICA HOME LOANS
SERVICING, L.P.**

**MOTION FOR
RECONSIDERATION ON NO
ANSWER DEFAULT**

Defendant

Dated: September 16, 2010

**PLAINTIFF'S MEMORANDUM IN SUPPORT OF
MOTION FOR RECONSIDERATION OF ORDER**

Plaintiff asks the court to reconsider its ORDER issued September 15, 2010 DENYING Plaintiffs Motion for No Answer Default..

A. Introduction

1. Plaintiff filed suit against Defendant BAC Home Loans Servicing, L.P. on August 18, 2010 for violations of numerous federal laws/codes, breach of fiduciary duty, fraud, et al.
2. Defendant had 21 days to answer the Complaint.
3. Defendant failed to answer within the FCRA time limitation.
4. Plaintiff filed for No Answer Default on September 13, 2010
5. Defendant filed Motion for Extension of Time to Answer September 14, 2010.
6. Judge Panner denied Plaintiffs No Answer Default Motion and granted an extension of time to Defendant.
7. Plaintiff files this Motion for Reconsideration and asks the court to overturn the Order.

B. Argument

8. The court should grant Plaintiff's Motion for Reconsideration for the following reasons:

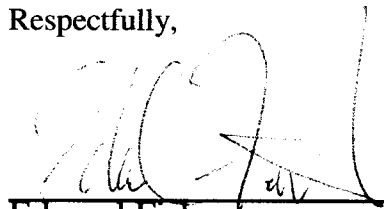
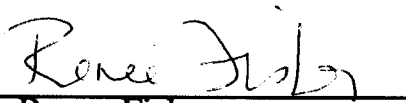
- a. Plaintiffs believe that the judgement contains an error of law, and reconsideration is appropriate. *Russell v. Delco Remy*, 51 F.3d 746, 749 (7th Cir. 1995); *Collision v. Int'l Chem. Workers Union, Local 217*, 34 F.3d 233, 236 (4th Cir. 1994). On August 18, 2010 Plaintiff filed with the court an Original Complaint. On August 20, 2010 Defendant was served with a summons and a copy of plaintiff's complaint by and through Kim Hernandez, Process Server, Eugene, Oregon. A copy of the Proof of Service was filed and entered into the court record on August 27, 2010.
- b. FRCP allows for 21 days for Defendant to answer a complaint. Defendant did not file a Notice of Appearance or any type of responsive pleading or otherwise defend the suit.
- c. After the court received the proper default paperwork, the Defendant was granted a new date of October 1, 2010 to answer Plaintiffs Complaint.

C. Conclusion

9. Plaintiffs feel that because the FRCP clearly state that the Defendants must answer the suit within 21 days of receipt of service, and Defendants failed to produce an answer to the suit, for these reasons, Plaintiff asks the court to grant the Motion for Reconsideration and render a judgment that Defendants answer is untimely, and Plaintiffs order for No Answer Default stands.

10. In the alternative, since the order has yet to be uploaded to PACER, Plaintiff would request Finding and Facts in conclusions of law be given to support the decision of this court.

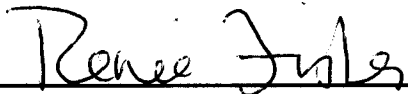
Respectfully,


Edward Fisher
Renee Fisher

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and exact copy of the above has been furnished by U.S. Mail on this 16th day of September, 2010 to the following:

Ian Kyle, OSB #094128
Routh Crabtree Olsen, P.C.
11830 SW Kerr Parkway, Suite 385
Lake Oswego, OR 97035
Attorneys for Defendant Bank of America Home Loans



RENEE FISHER